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1. This Examiner's Amendment is in response to Applicant's amendments filed August 4, 2008 and October 9, 2008. Applicant's amendments amended claims 1-11, 13-44, 60-65, 67-69, 71-72 and 75 and canceled claims 12, 66, and 72-74.

Claims 45-59 are canceled herein. Claims 1-11, 13-44, 60-65, 67-69, 71-72 and 75 are amended below and are allowed as amended.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. William Hughet (Reg. No. 44,471) on October 30, 2008.

Amendments to the Claims:

1. (Currently Amended) A computer-implemented method for measuring and analyzing store performance comprising:

collecting transaction data of store sales activity, utilizing a plurality of available data sources, the data comprising two or more of field performance data, external, and legacy data, and training data, and including customer visit count data, the collected transaction data being indicative of store performance factors;

analyzing the collected transaction data with a computer processor to compute an aggregate synopsis of performance of a store employee as a subject under observation;

hypothesizing using the aggregate synopsis, said hypothesizing developing a hypothesis for store improvement, the hypothesis determining at least one of a plurality of recommended actions for application to the subject under observation;

applying the determined recommended actions to the subject under observation; and

measuring a change in the store performance as a result of the subject under observation applying the determined recommended actions,

wherein the field performance data includes data indicative of at least one of sales per hour (SPH), dollars per transaction (DPT), units per transaction (UPT), transactions per hour (TPH), traffic conversion percentage, customer traffic count, and periodic goals,

wherein the hypothesizing is performed with an expert system, and

wherein the store performance factors include one or more of gross sales, return sales, net sales, sales goals, dollars per transaction, and number of transactions,

wherein the determined recommended actions include improving proficiency of skills of the subject under observation.

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20. (Currently Amended) A computer system for analyzing employee and store performance comprising:

a transactional data store operable to store transactional data of store sales activity from a plurality of available data sources including field performance data, external, and legacy data and training data, the stored transactional data being indicative of performance of a store and performance of a store employee as a subject under observation;

an analysis engine coupled to receive the transactional data from the data store, the analysis engine operable to compute an aggregate synopsis of performance of the subject under observation from the transactional data; and

a hypothesizer responsive to the analysis engine and operable to develop a hypothesis for store improvement and to determine at least one recommended action for the subject under observation from the aggregate synopsis, the at least one recommended actions directed to improving the performance of the store,

wherein the field performance data includes data indicative of at least one of sales per hour (SPH), dollars per transaction (DPT), units per transaction (UPT), transactions per hour (TPH), traffic conversion percentage, customer traffic count, and periodic goals,

wherein the hypothesizer comprises an expert system, and

wherein the store performance is measured by one or more of gross sales, return sales, net sales, sales goals, dollars per transaction, and number of transactions,

wherein the determined at least one recommended action includes improving proficiency of skills of the subject under observation.

41. (Currently Amended) The system of claim 20 wherein the ~~plurality of recommended actions~~ at least one recommended action further ~~correspond~~ corresponds to a library of multimedia solutions, the multimedia solutions adapted to provide educational development of skill and knowledge.

45. - 59. (Canceled)

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60. (Currently Amended) A computer-implemented method for improving store productivity comprising:

gathering transaction data of store sales activity from a plurality of available computer data sources, the data including at least one of external, and legacy data, field performance data, and training data, and including sales activity corresponding to at least one employee;

analyzing the gathered transaction data with a computer processor to determine a ranking of employee performance, the gathered transaction data indicative of revenue generation and skill proficiency of each of the at least one employee;

defining a set of recommended actions directed at improving store productivity as a function of the at least one employee's skill proficiency and revenue generation;

correlating the ranking with the set of recommended actions for the at least one employee;

implementing, based on the correlating, at least one of the recommended actions; and

measuring productivity improvement of the store resulting from the implementing of the at least one recommended actions by the at least one employee,

wherein the field performance data includes data indicative of at least one of sales per hour (SPH), dollars per transaction (DPT), units per transaction (UPT), transactions per hour (TPH), traffic conversion percentage, customer traffic count, and periodic goals,

wherein defining a set of recommended actions is performed by an expert system, and

wherein the productivity improvement of the store is measured by one or more of gross sales, return sales, net sales, sales goals, dollars per transaction, and number of transactions,

wherein the set of defined recommended actions include improving proficiency of skills of the at least one employee.

75. (Currently Amended) A system for analyzing employee and store performance data comprising:

means for utilizing a plurality of available computer generated data and gathering therefrom sales transaction data indicative of store performance factors;

means for analyzing the gathered sales transaction data to compute an aggregate synopsis of performance of a store employee as a subject under observation;

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means for hypothesizing the improvement in store performance based on the computed aggregate synopsis, said hypothesizing means further determining at least one of a plurality of recommended actions to be applied to the subject under observation;

means for applying the determined recommended actions to the subject under observation; and

means for measuring a change in the performance of the store as a result of application of the determined recommended actions,

wherein the sales transaction data includes data indicative of at least one of sales per hour (SPH), dollars per transaction (DPT), units per transaction (UPT), transactions per hour (TPH), traffic conversion percentage, customer traffic count, and periodic goals,

wherein the means for hypothesizing comprises an expert system, and

wherein the change in the performance of the store is measured by one or more of gross sales, return sales, net sales, sales goals, dollars per transaction, and number of transactions,

wherein the at least one of a plurality of determined recommended actions include improving proficiency of skills of the subject under observation.

ALLOWANCE

3. The following is an Allowance in response to Applicant's amendments filed on August 4, 2008, October 9, 2008 and the telephone interview held with Mr. William Hugnet (Reg. No. 44,471) on October 30, 2008.

Claims 45-49 have been canceled, Claims 1-11, 13-44, 60-65, 67-69, 71-72 and 75 have been amended and are allowed as amended.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance.

The present invention is directed to an expert rule-based system and method for measuring and analyzing the performance of a retail store and an employee of the store wherein the expert system recommends actions to improve the performance of the employee and the store (hypothesis) that improve at least the proficiency of the employees skills, based on the analysis of collected store sales activity data and customer visit count data (aggregate synopsis), measures a change in the store's performance due to the implementation of the recommended actions (e.g. training) by the employee.

The closest prior art Capillo (Sales Performance Accountability), Winning Retail, Matsko (USPN 7,093,748), McIlwaine (USPN 6,324,282) and Ibarra (USPN 6,119,097) fail to teach or suggest either singularly or in combination an expert system

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recommending a hypothesis for store improvement, based on the collection and analysis of store sales activity data comprising two or more field performance data, external, and legacy data and training data and including customer visit data indicative of store performance factors wherein the field performance data includes at least one of sales per hour, dollars per transaction, units per transaction, transactions per hour, traffic conversion percentage and customer traffic count, external, legacy training and the store performance data includes at least one of gross sales, returned sales net sales, sales goals, dollars per transaction and number of transactions (aggregate synopsis), the hypotheses determining at least one recommended action for application to the store employee (subject under observation), and measuring a change in store performance as a result of apply the recommended hypothesis (actions) by the store employee wherein the recommended actions include improving the proficiency of the employee (subject under observation) as recited in independent claims 1, 20 and 75 and/or an expert system determining a set of recommended actions for store improvement based on the ranking of employee performance determined by collecting and analyzing of store sales activity data comprising two or more field performance including at least one of sales per hour, dollars per transaction, units per transaction, transactions per hour, traffic conversion percentage and customer traffic count, external, legacy training and customer visit data indicative of the employees revenue generation and skill proficiency, defining a set of recommendation actions for improving store productivity at least one recommended action for application to the store employee (subject under observation), and measuring a productivity improvement resulting from

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implementing the at least one recommend action by the employee for improving the proficiency of the employees skills as recited in independent claims 60 and 64.

While the prior art, as discussed above, teaches many of the elements of independent claims 1, 20, 60, 64 and 75 one of ordinary skill in the art would not have recognized that the results of the combination were predictable.

Further, Applicant's arguments, see Page 22, Lines 22-26,32; Page 23, Lines 1, 16-17; Page 24, Lines 3-9; Page 27, Lines 10-23 and Page 33, Lines 9-15, filed August 8, 2008, with respect to Claims 1, 20, 60, 64 and 75 have been fully considered and are persuasive.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hitchcok et al., U.S. Patent No. 5,823,781, teach a system and method for assessing and providing training (courses) based on the assessment (e.g. skill level) of a user.

- Havens, U.S. Patent No. 5,909,669, teach a system and method for monitoring, calculating, assessing and benchmarking employee (worker) performance measures (e.g. skills, capabilities).

- Nichols et al., U.S. Patent No. 5,987,443, teach an expert system for goal-based training wherein users are provided training based on their performance of simulated business scenarios.

- Bhandari et al., U.S. Patent Publication No. 2001/0034730, teach a training system and method for assessing user performance and providing advice to users to improve their performance via a rules-based expert system.

- Yoko et al., U.S. Patent Publication No. 2002/0035500, teach a system and method for measuring and comparing corporate sales goals to actual sales performance (e.g. sales volume) as well as storing action plans related to achieving sales goals in a database.

- Mui et al., U.S. Patent Publication No. 2003/0229529, teach a system and method for assessing employees (persons) in a business to achieve a desired business goal.

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- Harrison, Using In-Store Systems to Achieve a Competitive Advantage (1991), teaches the well known use of automated systems to improve the productivity of store-level personnel wherein some of the systems access a plurality of data including point-of-sales transactions. Harrison further teaches that such systems are "key candidates for expert systems."

- Athanassopoulos, Performance Improvement Decision Aid System (PIDAS) in Retailing Organizations Using Data Envelopment Analysis (1995) teach the use of decision support systems (DSS) to aid retail organizations in decision making processes including decisions related to store performance. Athanassopoulos further teaches scaling the various performance metrics to account for stores and/or markets of differing sizes.

- Pearce, The Retail Performance Dynamic (1998), teaches well known retail performance metrics such as productivity per personnel, dollar volume/sales, average sales and store traffic.

- Thomas et al., A process for evaluating retail store efficiency (1998), teaches analyzing and evaluating a retail store manager's retail store performance.

- Taylor et al., Salespersons and Sales Managers (1999) teach a plurality of well known retail store employee performance measures such as net profile, sales volume and the like.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is

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(571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott L Jarrett/
Primary Examiner, Art Unit 3624